



**Robert P. Astorino  
County Executive**

Office of the County Attorney

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June 29, 2012

Catherine O'Hagan Wolfe  
Clerk of the Court  
United States Court of Appeals for the Second Circuit  
Thurgood Marshall Courthouse  
40 Foley Square  
New York, New York 10007

Re: *Kachalsky v. Cacace*  
11-3642 (L)  
11-3962 (XAP)

Dear Ms. Wolfe:

This letter is respectfully submitted in response to the Court's request for "supplemental briefing from the parties concerning the impact, if any, of the June 1, 2012, decision of this Circuit in *United States v. Decastro*, 10-3773."

Upon review of *Decastro*, the County reaffirms the position asserted in its Appellee's Brief, dated February 3, 2012, that Section 400.00(2)(f) of the Penal Law does not implicate the core Second Amendment right recognized in *Heller* and *McDonald* – the right of law abiding citizens to possess operable firearms in their homes. The County further reaffirms the alternative position asserted in its Appellee's Brief, dated February 3, 2012, that if Section 400.00(2)(f) of the Penal Law is within the ambit of the Second Amendment right recognized in *Heller*, it is nonetheless constitutional because it is substantially related to an important governmental interest in public safety.

Very truly yours,

/s/ Thomas G. Gardiner (TGG 7305)

Thomas G. Gardiner  
Sr. Assistant County Attorney

TGG/nn

